

REMARKS

Interview Summary

The undersigned attorney thanks Examiner Landrum and Supervisory Examiner Shoap for their courtesy in conducting a telephone interview on July 19, 2006, and for their helpful comments.

During the interview, the rejection of claims 1, 3, 7, and 9 as being anticipated by US 6035460 (Borter) was discussed, and it was suggested that the rejection might be overcome by positively reciting the knife in the claims to avoid "capable of" type claim language in the relationship between the knife holder and the knife.

The rejection of claims 1, 3, 7, and 9 under 35 USC 103(a) as being unpatentable over US 5,551,326 (Goodman) in view of US 5351812 (Eagon) was also discussed. In response to the undersigned's argument that surface 76 of Goodman is part of the knife itself and not a pressure plate, the Examiners took the position that the pressure plate recited in claim 1 could be a part of the knife itself. It was suggested that a limitation specifying the pressure plate as being separate from the knife may help overcome this rejection.

Present Amendment

Claim 1 is presently amended following the suggestions made during the interview of July 19, 2006. In particular, the cutting knife is now positively claimed, and its relationship to the pressure plate of the knife holder is positively recited. Moreover, the pressure plate is explicitly "separate from" the cutting knife, meaning that the pressure plate cannot be a part of the cutting knife.

The present amendment is necessary to provide positive claim limitations in place of language of capability, and to make explicit a limitation that was implicit in Applicant's view but not in the view of the Patent Office. For example, the cutting knife is now positively recited in the body of claim 1, and the knife holder is defined to include a pressure plate "clamping the cutting knife (2) in the knife holder (1) by applying pressure to the cutting knife." As a further example, Applicant considered it to be implicit that the "pressure plate" is separate from the "cutting knife" because these are different elements of the claimed structure, however this limitation is made explicit in claim 1 after it was learned during the Interview that this was not the Patent Office's interpretation.

The present amendments were not made earlier because they are based on comments during the Interview of July 19, 2006. The amendments are not of a nature that would require additional searching, and are believed to place the application in condition for allowance, as explained below. At the very least, the amendments should reduce the number of issues on appeal. It is respectfully urged that the Examiner use his discretion to enter the amendments made herein to constructively advance prosecution.

Claim Rejections - 35 USC § 102

The rejection of claims 1, 3, 7, and 9 as being anticipated by US 6035460 (Borter) is respectfully overcome.

The cited reference describes a shower door assembly that adjusts for installation in openings of different widths. The Office Action identifies the shower door 16 as corresponding to the claimed “pressure plate,” and the door frame surrounding the shower door as corresponding to the claimed “U-shaped frame.” The rejection asserts that the shower door is capable of holding a razor, as by a suction cup, to function as a microtome 9 (see US 5839198 - McCoy).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is respectfully argued that when this standard is applied, there are limitations of claims 1, 3, 7, and 9 that are not described in Borter.

Claim 1, as amended, requires “the pressure plate clamping the cutting knife (2) in the knife holder (1) by applying pressure to the cutting knife ...”. In Borter, the shower door does not clamp the razor in the knife holder by applying pressure to the razor. Rather, the razor handle may be placed on the shower door by a suction cup as taught by McCoy, which states:

The suction cup allows the razor unit to be affixed to any surface. In the preferred usage, the razor unit is temporarily affixed to a vertical surface such as a shower wall. The user may repeatedly remove and affix the razor unit to the surface as desired. This embodiment is especially preferred for individuals who use the razor while standing in a shower because it allows for quick and easy placement of the razor in a safe location on a vertical surface while the user performs other functions, such as lathering with shaving cream.

See McCoy at column 2, lines 35-43. Therefore, the door provides a placement surface on which the razor may be affixed when it is not in use, but it does not clamp or apply pressure to the cutting knife.

By contrast, as described in the present specification, pressure plate (3) locks the cutting knife (2) in knife holder (1) by clamping the cutting knife. See paragraph [0021] and Figs. 1 and 2.

Claim 1 further requires “a U-shaped frame (4) mounted detachably on the pressure plate (3) by magnets (6)...”. The Patent Office identifies the frame surrounding the shower door and the magnets (24) of Borter as meeting this limitation. Presumably, the frame

surrounding the shower door consists of vertical side wall jamb sections (10) and (11) and horizontal shower base (13) extending between the side wall jamb sections (10) and (11). Door (16) is mounted on the frame by a top pivot (43) associated with jamb section (11) and a bottom pivot (44) associated with shower base (13); both pivots can be seen in Fig. 2, although they are not numbered in that figure. The side jambs (10) and (11) and the base (13) are anchored to the shower wall and entryway floor of the shower by pan head screws 31. Continuous magnets (24) of Borter are part of a spring-loaded latching mechanism acting between the shower door and side wall jamb section (10). The U-shaped frame (members (10), (11), (13)) is not detachably mounted on door (16) by magnets (24) as required by the claim because separation of the opposing magnets (24) does not detach the U-shaped frame from the shower door.

Claim 1 includes a final limitation “wherein the frame (4) and the pressure plate (3) cooperate to form a water pan.” The rejection states that the “frame” and the “pressure plate” identified in Borter “cooperate to form a water tight seal.” The frame and shower door do not, however, cooperate to form a water pan.

Regarding claim 3, the frame identified in Borter (members (10), (11), (13)) is not made as a one-piece component.

Regarding claim 9, side wall jamb sections (10) and (11) of the frame are not wedge shaped.

For the reasons given above, applicant respectfully requests that the rejection of claims 1, 3, 7, and 9 as being anticipated by Borter be withdrawn.

Claim Rejections - 35 USC § 103

The rejection of claims 1, 3, 7, and 9 under 35 USC 103(a) as being unpatentable over US 5,551,326 (Goodman) in view of US 5351812 (Eagon) is respectfully overcome for reasons given below.

Goodman discloses a knife (73) having an upper surface (76); see column 6, lines 5 and 11. The Office Action argues that reference numeral (76) identifies a pressure plate “for locking the cutting knife (2) in the knife holder (1) ...”. According to amended claim 1, the pressure plate is separate from the cutting knife itself. However, surface (76) in Goodman is part of the knife itself. Thus, surface (76) of Goodman cannot be a “pressure plate” that clamps the knife in accordance with amended claim 1.

Goodman is discussed in the Background section of applicant’s specification at paragraphs [0008]-[0009]. As explained by applicant, the disclosure of Goodman relates to embodiments wherein a water “boat” is arranged directly on the knife, an arrangement that is not possible in situations where the knife is clamped into the knife holder by a pressure plate.

Thus, Goodman is flawed as a primary reference against claims 1, 3, 7, and 9, and the rejection should be withdrawn.

The rejection of claim 8 under 35 USC 103(a) as being unpatentable over Goodman in view of US 2001/0003938 (Heid) is respectfully overcome based on the shortcomings of Goodman as a primary reference discussed above. Removal of the rejection is kindly sought.

Conclusion

The present amendment is thought to place the application in condition for allowance, and its entry is respectfully requested. If the Examiner has any questions, or the attorneys for applicant can assist in any way, the undersigned attorney may be contacted at the number provided below.

Respectfully submitted,

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